

Notice of Allowability	Application No.	Applicant(s)
	10/807,144 Examiner John Juba, Jr.	WADA ET AL. Art Unit 2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to terminal disclaimer and remarks filed May 25, 2005.
2. The allowed claim(s) is/are 1-12.
3. The drawings filed on 02 September 2004 are accepted by the Examiner.
4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some*
 - c) None
 of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of
 Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 8/24/2004
4. Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. Notice of Informal Patent Application (PTO-152)
6. Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other _____.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

The prior art, taken alone or in combination, fails to teach or fairly suggest *the combination* of the first, second, and third refractive index portions

particularly wherein a high refractive index variation layer portion, in which the refractive index of the high refractive index layer is lower than the other two high refractive index layers that are adjacent on both sides thereof via the low refractive index layer is inserted into at least one of the first through third laminated portions, as recited in claim 1;

particularly wherein a low refractive index variation layer portion, in which the refractive index of the low refractive index layer is higher than the other two low refractive index layers that are adjacent on both sides thereof via the high refractive index layers is inserted into at least one of the first through third laminated portions, as recited in claim 6; or

particularly wherein at least one of such a high refractive index variation portion or a low refractive index variation portion is inserted into at least one of the first through third laminated portions, as recited in claim 8.

Applicants' submission of a Terminal Disclaimer is sufficient in overcoming the previous (provisional) rejection of claim 6 is under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 4 of copending Application No. 10/917,479.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

X. Wang, et al (*J. Vac. Sci. Techn. A*) was cited by the applicant in copending U.S. Patent Application serial No. 10/917,479 (Wada, et al), and by cited a counterpart foreign patent office against specific claims of that application. However, the distinctions between the layer systems disclosed therein and the invention claimed in the present application are readily seen by comparing Figures 1b, 3a, 5a, 6a, and 7a, to Figure 2a (for example) of the present application. This reference fails to disclose or suggest whether the high refractive index variation portion or the low refractive index variation portion variously recited in independent claims 1, 6, and 8, wherein the second lamination portion is defined as recited in each of claims 1, 6, and 8.

Bertrand G. Bovard (*Appl. Optics*) was cited by the applicant and by a counterpart foreign patent office as being generally relevant to copending U.S. Patent Application serial No. 10/917,479 (Wada, et al).

Qi Tang, et al (*J. Vac. Sci. Techn. A*) was cited by the applicant and by a counterpart foreign patent office as being generally relevant to copending U.S. Patent Application serial No. 10/917,479 (Wada, et al).

JP 61-19962 B2 (S61-) was cited by the applicant in copending U.S. Patent Application serial No. 10/917,479 (Wada, et al).

HANDBOOK OF OPTICS (McGraw-Hill) was cited by the applicant in copending U.S. Patent Application serial No. 10/917,479 (Wada, et al).

The examiner has attached a corrected copy of Applicants' August 3, 2004 form PTO-1449, where the examiner had previously neglected to initial next to the citation of EP 0 967 496.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Post-allowance papers should be mailed to **Box Issue Fee**. Post-allowance papers may also be faxed to correspondence branch in PUBs. The fax number is (703) 308-5083. The **PUBs customer service** number is (703) 305-8497.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Juba whose telephone number is (571) 272-2314. The examiner can normally be reached on Mon.-Fri. 9 - 5.


JOHN JUBA, JR.
PRIMARY EXAMINER
Art Unit 2872

June 22, 2005